REMARKS/DISCUSSION OF ISSUES

Claims 1 through 9 are pending in the application. Claims 1 through 9 are rejected.

Acknowledgement of Applicant's claim for priority and receipt of certified copies of all the priority document(s), and acceptance of the drawings is appreciated.

Claims 1, 2 and 4-9 are rejected under 35 USC 103(a) as being unpatentable over newly cited Steeger et al. (US 4,599,536)(herein 'Steeger') in view of Opitz.

Steeger discloses a low-pressure mercury gas discharge lamp comprising a transparent inner bulb coated with a phosphor, which forms a gas discharge vessel, and comprising an outer bulb surrounding and spaced apart from the inner bulb.

Steeger discloses that the phosphor converts UV to visible light, but does not specify the particular phosphor used.

Opitz is cited to show the use of specific phosphor compositions as coatings in a lighting device. However, Opitz teaches that these phosphors are used for the emission of visible (red, green and blue) light (See col. 3, lines 28-32), and nowhere teaches or suggests that these phosphors would be suitable for the absorption of UV-A.

While some of the phosphors listed by Opitz are UV-A phosphors, others are not. There is simply no teaching by Opitz which would lead the skilled artisan to choose certain phosphors from the list, while rejecting others, without the hindsight gained from Applicants' teachings regarding the harmful effect of UV-A radiation. Such hindsight is not permitted in judging obviousness under Section 103.

In the Advisory Action dated 22 October 2003, which was in response to the amendments and arguments submitted 19 September

2003, and entered persuant to the RCE of 12 November 2003, the Examiner stated that Opitz teaches the use of certain phosphors, some of which happen to be UVA phosphors, and that although Opitz does not state that the phosphors are used as UVA phosphors, that is an inherent characteristic of the material.

However, Opitz uses the phosphors for their visible light emission characteristics, which are also inherent characteristics of the phosphors. Moreover, Opitz does not recognize which phosphors also happen to also have UVA emission characteristics. Thus, Opitz lacks both guidance and motivation to the skilled artisan to choose any particular phosphor for its UVA characteristics.

In response, the Examiner states that the phosphors would be beneficial to protect against chemical attack and are liquid and readily dispersible, and this teaching provides motivation for their use.

However, these beneficial characteristics apply to all of the phosphors disclosed by Opitz. There is no teaching or suggestion to choose some of those phosphors over others, based on a criteria, i.e., UVA emission, not mentioned by Opitz.

The only guidance for choosing phosphors having UVA characteristics is taught be Applicant. The use of such guidance in judging patentability under Section 103 is not permitted by law.

Accordingly, it is urged that the rejection of claims 1, 2 and 4-9 under 35 USC 103(a) as being unpatentable over Steeger in view of Opitz is in error, and should be withdrawn.

Claim 3 is rejected under 35 USC 103(a) as being unpatentable over Steeger in view of Opitz in further view of Nishio et al. (US 6,437,502)(herein 'Nishio').

Nishio is cited to show an outer bulb made of resin. Without conceding the patentability per se of claim3, this claim is nevertheless patentable by virtue of its dependency on claim 1.

Accordingly, it is urged that the rejection of claim 3 under 35 USC 103(a) as being unpatentable over Steeger in view of Opitz in further view of Nishio is in error, and should be withdrawn.

In view of the foregoing, Applicant respectfully requests that the Examiner withdraw the rejections of record, allow all the pending claims, and find the application to be in condition for allowance.

Respectfully submitted,

John C Fox

John C. Fox, Reg. 24,975
Consulting Patent Attorney
203-329-6584